

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

INDECK KEYSTONE
ENERGY, LLC, a Delaware limited liability
company,

Plaintiff,

v.

VICTORY ENERGY
OPERATIONS, LLC, a Delaware limited
liability company,

Defendant.

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: CIVIL ACTION
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: NO. 04-CV-325 (ERIE)
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: Judge Sean J. McLaughlin
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**PLAINTIFF'S MOTION *IN LIMINE* TO PRECLUDE DEFENDANT FROM
ARGUING FOR "REASONABLE ROYALTY" DAMAGES ON PLAINTIFF'S
TRADEMARK, MISAPPROPRIATION OF TRADE SECRETS,
UNJUST ENRICHMENT, AND UNFAIR COMPETITION CLAIMS**

Plaintiff, Indeck Keystone Energy, LLC ("IKE"), by and through its undersigned counsel, hereby moves to preclude Victory Energy Operations, LLC ("VEO") from arguing to the jury that it is entitled to "reasonable royalty" damages on plaintiff's trademark, misappropriation of trade secrets, unfair competition and unjust enrichment claims. The grounds for this are set forth in the accompanying memorandum of law.

Accordingly, Plaintiff, Indeck Keystone Energy, LLC respectfully requests that this Motion *in Limine* be granted, and that the Court preclude VEO from arguing to the jury that it is entitled to "reasonable royalty" damages on plaintiff's misappropriation of trade secrets, unfair competition, unjust enrichment, and trademark claims.

Respectfully submitted,

/s/ John K. Gisleson

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Attorneys for Plaintiff and Counterclaim Defendant,
Indeck Keystone Energy, LLC

Dated: April 27, 2007

LOCAL RULE 16.1.4(D) CERTIFICATION

Pursuant to Local Rule 16.1.4(D), I hereby certify that counsel for Plaintiff, Indeck Keystone Energy, LLC made a good faith effort to confer with opposing counsel in an effort to reach agreement on the issues raised in the foregoing motion *in limine*, but opposing counsel was unwilling to agree to the issues raised in the motion.

/s/ John K. Gisleson

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing **Indeck Keystone Energy, LLC's Motion *in Limine* to Preclude Defendant from Arguing for "Reasonable Royalty" Damages On Plaintiff's Trademark, Misappropriation of Trade Secrets, Unjust Enrichment and Unfair Competition Claims** was served upon the following counsel of record by the CM/ECF electronic filing system on the 27th day of April, 2007:

Christopher T. Sheean, Esquire
Matthew Garrett, Esquire
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/s/ John K. Gisleson